§ 5.32 Expedited procedures for certain reorganizations.

(a) Authority. 12 U.S.C. 93a and 215a–2.

(b) Scope. This section prescribes the procedures for OCC review and approval of a national bank’s reorganization to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company. For purposes of this section, a “bank holding company” means any company that owns or controls a national bank, or will own or control one as a result of the reorganization.

(c) Licensing requirements. A national bank shall submit an application to, and obtain approval from, the OCC prior to participating in a reorganization described in paragraph (b) of this section.

(d) Procedures—(1) General. An application filed in accordance with this section shall be deemed approved on the 30th day after the OCC receives the application, unless the OCC notifies the bank otherwise. Approval is subject to the condition that the bank provide the OCC with 60 days’ prior notice of

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(4) Intermittent branches. Prior to operating an intermittent branch, a national bank shall file a branch application and publish notice in accordance with §5.8, both of which shall identify the event at which the branch will be operated; designate a location for operation of the branch which shall be on the grounds or premises at which the event is held or on a fixed site adjacent to those grounds or premises; and specify the approximate time period during which the event will be held and during which the branch will operate, including whether operation of the branch will be on an annual or otherwise recurring basis. If the branch is approved, then the bank need not obtain approval each time it seeks to operate the branch in accordance with the original application and approval.

(5) Authorization. The OCC authorizes operation of the branch when all requirements and conditions for opening are satisfied.

(6) Expedited review. An application submitted by an eligible bank to establish or relocate a branch is deemed approved by the OCC as of the 15th day after the close of the applicable public comment period, or the 45th day after the filing is received by the OCC, whichever is later, unless the OCC notifies the bank prior to that date that the filing is not eligible for expedited review, or the expedited review process is extended, under §5.13(a)(2). An application to establish or relocate more than one branch is deemed approved by the OCC as of the 15th day after the close of the last public comment period.

(7) Interstate branches. A national bank that seeks to establish and operate a de novo branch in any state other than the bank’s home state or a state in which the bank already has a branch shall satisfy the standards and requirements of 12 U.S.C. 36(g).

(8) Exceptions to rules of general applicability. (3) A national bank filing an application for a mobile branch or messenger service branch shall publish a public notice, as described in §5.8, in the communities in which the bank proposes to engage in business.

(2) The comment period on an application to engage in a short-distance branch relocation is 15 days.

(3) The OCC may waive or reduce the public notice and comment period, as appropriate, with respect to an application to establish a branch to restore banking services to a community affected by a disaster or to temporarily replace banking facilities where, because of an emergency, the bank cannot provide services or must curtail banking services.

(4) The OCC may waive or reduce the public notice and comment period, as appropriate, for an application by a national bank with a CRA rating of Satisfactory or better to establish a temporary branch which, if it were established by a state bank to operate in the manner proposed, would be permissible under state law without state approval.

(i) Expiration of approval. Approval expires if a branch has not commenced business within 18 months after the date of approval.

(j) Branch closings. A national bank shall comply with the requirements of 12 U.S.C. 1831r–1 with respect to procedures for branch closings.

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(a) Authority. 12 U.S.C. 93a and 215a–2.

(b) Scope. This section prescribes the procedures for OCC review and approval of a national bank’s reorganization to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company. For purposes of this section, a “bank holding company” means any company that owns or controls a national bank, or will own or control one as a result of the reorganization.

(c) Licensing requirements. A national bank shall submit an application to, and obtain approval from, the OCC prior to participating in a reorganization described in paragraph (b) of this section.

(d) Procedures—(1) General. An application filed in accordance with this section shall be deemed approved on the 30th day after the OCC receives the application, unless the OCC notifies the bank otherwise. Approval is subject to the condition that the bank provide the OCC with 60 days’ prior notice of
any significant deviation from the bank's business plan or any significant
deviation from the proposed changes to
the bank's business plan described in
the bank's plan of reorganization.

(2) Reorganization plan. The applica-
tion must include a reorganization plan that:
   (i) Specifies the manner in which the
   reorganization shall be carried out;
   (ii) is approved by a majority of the
   entire board of directors of the na-
tional bank;
   (iii) Specifies:
      (A) The amount and type of consider-
      ation that the bank holding company
      will provide to the shareholders of the
      reorganizing bank for their shares of
      stock of the bank;
      (B) The date as of which the rights of
      each shareholder to participate in that
      exchange will be determined; and
      (C) The manner in which the ex-
      change will be carried out;
   (iv) is submitted to the shareholders
   of the reorganizing bank at a meeting
   to be held at the call of the directors in
   accordance with the procedures pre-
   scribed in connection with a merger of
   a national bank under section 3 of the
   National Bank Consolidation and
   Merger Act, 12 U.S.C. 215a(a)(2); and
   (v) Describes any changes to the
   bank's business plan resulting from the
   reorganization.
(3) Financial and managerial resources
and future prospects. In reviewing an ap-
lication under this section, the OCC
will consider the impact of the pro-
posed affiliation on the financial and
managerial resources and future pros-
pects of the national bank.
(e) Rights of dissenting shareholders.
Any shareholder of a bank who has
voted against an approved reorganiza-
tion at the meeting referred to in para-
graph (d)(2)(iv) of this section, or who
has given notice of dissent in writing
to the presiding officer at or prior to
that meeting, is entitled to receive the
value of his or her shares by providing
a written request to the bank within 30
days after the consummation of the re-
organization, as provided by section 3
of the National Bank Consolidation
and Merger Act, 12 U.S.C. 215a(b) and
(c), for the merger of a national bank.
(f) Approval under the Bank Holding
Company Act. This section does not af-
flect the applicability of the Bank Hold-
ing Company Act of 1956. Applicants
shall indicate in their application the
status of any application required to be
filed with the Board of Governors of
the Federal Reserve System.
(g) Expiration of approval. Approval
expires if a national bank has not com-
pleted the reorganization within one
year of the date of approval.

(h) Adequacy of disclosure. (1) An ap-
plicant shall inform shareholders of all
material aspects of a reorganiza-
tion and comply with applicable require-
ments of the Federal securities laws,
including the OCC's securities regula-
tions at 12 CFR part 11.
(2) Any applicant not subject to the
registration provisions of the Securi-
ties Exchange Act of 1934 shall submit
the proxy materials or information
statements it uses in connection with
the reorganization to the appropriate
district office no later than when the
materials are sent to the shareholders.

[68 FR 70129, Dec. 17, 2003]

§ 5.33 Business combinations.
(a) Authority. 12 U.S.C. 24(Seventh),
93a, 181, 214a, 214b, 215, 215a, 215a–1,
215a–3, 215c, 1815(d)(3), 1828(c), 1831u,
and 2903.
(b) Scope. This section sets forth the
provisions governing business combina-
tions and the standards for:
(1) OCC review and approval of an ap-
plication for a business combination
between a national bank and another
depository institution resulting in a
national bank or between a national
bank and one of its nonbank affiliates;
and
(2) Requirements of notices and other
procedures for national banks involved
in other combinations with depository
institutions.
(c) Licensing requirements. A national
bank shall submit an application and
obtain prior OCC approval for a busi-
ness combination between the national
bank and another depository institu-
tion when the resulting institution is a
national bank. A national bank shall
give notice to the OCC prior to engag-
ing in a combination where the result-
ing institution will not be a national
bank. A national bank shall submit an